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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Written statement* submitted by the Palestinian Centre for Human Rights (PCHR), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Palestinian Centre for Human Rights (PCHR) and LAW, the Palestinian Society for the Protection of Human Rights and the Environment (LAW) express their grave concerns at Israel's continuing gross and systematic violations of international human rights and humanitarian law in the Occupied Palestinian Territories (OPTs).

As recognized in the NGO Forum Declaration and Programme of Action of the World Conference Against Racism, August 2001, PCHR and LAW believe that at the heart of the ongoing systematic violations of international human rights and humanitarian law by Israel in the OPTs are extreme forms of racial discrimination, including the crime of apartheid.

Racial discrimination as defined under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) is a broad term which includes discrimination not only on the grounds of race and colour, but also of descent or national or ethnic origin. The racial discrimination practiced against Palestinians, in the form of the crime of apartheid is not on the basis of colour, as was the case in South Africa, rather on the basis of national origin and descent.

The ongoing Nakba (the Catastrophe) perpetrated by Israel against Palestinians since 1948 is characterized by a new form of Apartheid, including elements of the crime of Apartheid as defined in the International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention), colonialism and other forms of extreme racism practiced by Israel in the OPTs. The components of the Nakba, which include expulsions, theft and destruction of land and property without compensation, unlawful killings, ill treatment, economic and social restrictions, and restrictions on freedom of movement, have been, and continue to be used collectively, as a form of ethnic cleansing, to effectively drive Palestinians from the land.

Recognized as an extreme form of racism in CERD and other international standards, the subjugation of a people to alien domination and exploitation, including as a colonial power, is a denial of the fundamental right to self-determination and other human rights in violation of international law, is contrary to the Charter of the United Nations and is an impediment to world peace and security. The crime of apartheid involves the racial segregation and various inhumane acts committed for the purpose of establishing and maintaining racial domination of one racial group over the other and systematically oppressing them. In the case of Israel, these various inhumane acts have included the perpetration of war crimes, use of ethnic cleansing methods and specific incidents or acts of genocide.

The continued forcible expulsion of Palestinian from their lands, homes and property has been most recently pursued through Israel's house demolition policy which in the Gaza Strip alone has left almost 500 homes completely destroyed and more than 2000 homes damaged since the beginning of the Intifada; through landlevelling which has destroyed more than 10,000 dunums1 of agricultural land since September 2000; and through regular military attacks using apache helicopters, F16 fighter jets, tanks, heavy and medium calibre machine guns in civilian residential areas; and through the strict closures imposed on the OPTs, severing access to water, health care, food, education, work, family. The continued dispossession of Palestinian lands through, in particular, house and land destruction, and confiscation, and violence furthers colonialist expansion and has enabled the development and expansion of settlements, the focus and root of racism and discrimination in the OPTs.

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1 dunum equals 1000sq.metres.

The expropriation of land belonging to a racial group or its members is defined as one of the various inhumane acts perpetrated in the crime of apartheid under the Apartheid Convention2. The closure policy imposed on the OPTs which has resulted in the economic and social suffocation, leaving more than 80% of the population of the Gaza Strip living on less than US$2 per day3, constitutes the "deliberate creation of conditions preventing the full development of such a group…in particular by denying…basic human rights and freedoms, including the right to work, …the right to education, the right to leave and return to their country, …the right to freedom of movement and residency…"4.

Closures have also resulted in the further isolation of Palestinian towns and villages which, together with the expanding settlements and settlement infrastructure, have created separate Bantustan-style areas which are generally more densely populated, with inferior access to natural resources and are less fertile rural areas with little capacity for economic development or expansion for the increasing population than the land used for Jewish settlements. Segregation has also included the denial of access for Palestinians from the OPTs to Israel and for Jewish Israelis to Palestinian areas in the West Bank and Gaza Strip. Such segregation constitutes one of the inhumane acts perpetrated in the crime of apartheid as defined in article 2 (d).

The continued use of excessive and disproportionate force which has resulted in the deaths of at least 802 Palestinians5, and the continuing use of torture and ill treatment, including mental suffering, and arbitrary arrest and incommunicado detention, about which the UN Committee Against Torture recently expressed its grave concerns6, also constitute inhumane acts perpetrated under the crime of apartheid as defined in article 2 (a) (i and ii).

Another critical aspect of this dispossession has been the treatment of Palestinian refugees, particularly the discriminatory application of laws of return. As recognized by the UN Committee on Economic, Social and Cultural Rights7, the severe restrictions imposed by the government of Israel on Palestinians in the diaspora render it "almost impossible for Palestinians to return to the land of their birth". Alternatively, under the Law of Return, Jews from all over the world are virtually automatically granted residency rights and citizenship should they wish to immigrate to Israel.

Discrimination against Palestinians with regards access to land is clear, including in the example of East Jerusalem. The Committee of Economic, Social and Cultural Rights also noted that directives from the Israeli Ministry of Interior ensure that it is extremely difficult for Palestinians residing in East Jerusalem, including those who were born in the city, to maintain their residency rights and related rights to services. The qualification for residency that East Jerusalem was "the centre of life" for the previous seven years and the retroactivity of the application of this qualification ensured the continued denial of the right to family life for Palestinian families; children, parents and even spouses are forced to live separately as a result of the residency law. Such qualifications for residency are also applied in a discriminatory manner with the aim of creating and maintaining an almost exclusively Jewish population to

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2 Article 2 (d).
3 For more detailed information, please see PCHRs intervention on Economic, Social and Cultural Rights.
4 Article 2 (c).
5 Figures as of 18 January 2002.
6 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5.
7 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27..

Jerusalem. The Committee also expressed its concerns at the "excessive emphasis upon the State as a 'Jewish State'", which they stated "encourages discrimination"8.

The settlement policy pursued by Israel in the OPTs for several decades is a clear example and manifestation of the discriminatory forms of colonialism and apartheid used against Palestinians in the OPTs. Though the Palestinian Authority is theoretically in control of areas of the OPTs designated as Areas A under the Oslo Accords, the Israeli military maintains direct control of 82% of the OPTs. Their total de facto control of the OPTs, which is clear in the powers retained by the Israeli military under the various interim agreements (including overall security, foreign policy, border controls, economic controls, military justice etc), is illustrated by the current closure policy which has destroyed the economy; restricted social development and movement, and prevented access to medical care, aid, work and education; restricted the functioning of the Palestinian Authority security services, ministries and other institutions. The reason given for this continued control is settlements and the need to maintain the security of settlements.

Settlements and the settlement policy is the cornerstone of the Israeli Apartheid regime in the OPTs, complete with separate roads systems, legal systems and discriminatory allocation of land and natural resources. This settlement policy has been pursued in violation of Article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (Fourth Geneva Convention), which has been repeatedly reaffirmed applicable to the OPTs by the UN General Assembly and by its High Contracting Parties (except Israel), is a grave breach of the Convention under article 147 and is a war crime under Protocol 1 to the Fourth Geneva Convention and the Rome Statute of the International Criminal Court. As described above, elements of the settlement policy also constitute various inhumane acts perpetrated under the crime of apartheid as defined in the Apartheid Convention9.

Approximately 400,000 Jewish settlers live in 308 settlements in the OPTs, built on land illegally occupied and expropriated by Israel from Palestinians10. In the Gaza Strip, 1.3 million Palestinians subsist on 58% of the land while the remaining area is occupied by less than 6000 Jewish settlers and military personnel. The average settler in the Gaza Strip has access to 699 times as much land as an average Palestinian refugee camp resident11. The discriminatory allocation of access to natural resources has included water consumption (in the Gaza Strip Jewish settlers per capita water consumption is approximately 1000 cubic metres whereas Palestinians have access to 172 cubic metres per capita12), including the cost of water (settlers pay one quarter of the price paid by Palestinians in the Gaza Strip13) and access to agricultural areas (the largest settlement block in the Gaza Strip, Gush Qatif, is located along the sea shore and includes the most fertile areas of the Strip). The settlements are also served by a separate modern road system whilst Palestinians are forced to use poorer roads and often

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8 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98. E/C.12/1/Add.27. Para. 10.

9 Article 2 (d).

10 Geographic Information Systems, Applied Research Institute, Jerusalem.

11 Sara Roy, *The Gaza Strip: The Political Economy of De-Development*, 1995, p.178.

12 Ibrahim Mater, *Jewish Settlements, Palestinian Rights and Peace*, Information Paper Number 4, Centre for Policy Analysis on Palestine, January 1996, p.12. The discriminatory allocation of water and other natural resources was noted with grave concern by the UN Committee on Economic, Social and Cultural Rights in their Concluding Observations to Israel's initial report to the Committee (E/C.12/1/Add.27, para 24).

13 Jeffrey Dillman, *Water Rights in the Occupied Territories*, Journal of Palestine Studies 19, Autumn 1989, p.55.

dirt tracks. As recognized by the Committee on Economic, Social and Cultural Rights, "bypass roads" for settlement use and built on confiscated Palestinian land disrupt the contiguity of Palestinian areas, further isolating Palestinian communities and facilitating the expansion of settlements14.

In pursuing settlement expansion, the Israeli government provides generous economic subsidies and other benefits to settlers and many are provided with military training, arms and are guarded by the military. Settlers are subject to the laws of the State of Israel, and any settler who violates those laws, including in the OPTs, are subject to normal judicial proceedings inside Israel. Palestinians in the OPTs are subject to the Israeli military court system which consistently and routinely violates international standards on the right to a fair trial. Additionally, investigations of crimes perpetrated by Israelis in the OPTs, notably by settlers, are rarely conducted impartially and where prosecutions result, sentences are generally lenient, even for violent crime15.

As the Committee on Economic, Social and Cultural Rights have noted, the closure policy is applied only to Palestinians. Jewish settlers residing in the OPTs are not subject to any such restrictions. Similarly, the house demolitions, including those carried out in the absence of planning permission, are only carried out on Palestinian homes.

PCHR and LAW conclude that the State of Israel continues to practice a new form of Apartheid, including colonization and belligerent occupation in the OPTs and that the Palestinians in the OPTs suffer discriminatory treatment by the Israeli authorities in all areas of life in violation of international standards on equality, including the CERD, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Declaration on the Granting of Independence to Colonial Countries and Peoples16, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. PCHR and LAW assert that these practices and policies, in particular, the complete economic and social suffocation of the OPTs which includes denial of access to medical care, food, water, families, work, the demolition of Palestinian homes and properties (the UN Committee Against Torture found the closure and house demolition policies may constitute cruel, inhuman or degrading treatment in contravention of article 16 of the Convention Against Torture17) and the continuing military bombardment of civilian areas are part of the continuing Nakba perpetrated by Israel against the Palestinian people. PCHR and LAW further assert that Israel's aim in pursuing these systematic policies is to make life impossible for Palestinians, thereby forcing them to leave their land and thereby facilitating colonial expansion of Israel and furthering the exclusive nature of Israel as a Jewish state. PCHR and LAW therefore call upon

the Government of Israel

- To immediately cease all discriminatory practices and implement the provisions of CERD

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14 Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. E/C.12/1/Add.27 para 24.

15 On 21 January 2001, a Jewish settler was sentenced to six months community service and a 70,000 NIS fine for the beating to death of a Palestinian child. On the same day, an Israeli Court sentenced 17 year-old Palestinian girl, to six and a half years' imprisonment for attempting to stab a Jewish settler. For more information, please refer to LAWs Press Release, "*Two Israeli verdicts unveil discrimination against Palestinians*", 23 January, 2001, available on www.lawsociety.org.

16 Adopted by General Assembly Resolution 1514 (XV) of 14 December 1960.

17 Conclusions and Recommendations of the Committee Against Torture: Israel. 23/11/2001. CAT/C/XXVII/Concl.5. Para 6 (I and J).

and other international human rights treaties to which they are a State Party.

- To immediately cease all apartheid policies used, in particular those which are in contravention of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and Protocol 1 to the Geneva Conventions.

- To immediately halt settlement expansion in the OPTs and make arrangements for their quick and effective dismantlement.

- To end the ongoing belligerent occupation of the Gaza Strip and the West Bank, including Jerusalem, which constitutes colonial expansion and a new form of Apartheid.

the United Nations Human Rights Commission and General Assembly

- To reestablish the UN Special Committee Against Apartheid to scrutinize the Apartheid system pursued by Israel, verify information regarding the nature of this system and propose measures and action to be taken to eradicate this system and all related discriminatory practices.

- To exclude Israel from all UN-sponsored conferences and organizations.

the International Community

- To immediately provide an independent international protection presence with powers to intervene to prevent violations and protect Palestinian civilians in the OPTs.

- To recognize that the belligerent occupation of the Gaza Strip and the West Bank, including Jerusalem is colonialism; and that the occupation and various other methods and inhumane acts amount to a form of apartheid, and that the human rights violations which continue to be perpetrated against Palestinians by Israel are rooted in racism.

- To endorse and implement all the recommendations included in the Programme of Action of the NGO Forum of the World Conference Against Racism, Racial Discrimination, Xenophobia and all Related Forms of Intolerance.

- To take measures against the State of Israel similar to those imposed on Apartheid South Africa with the aim of ending the racist practices pursued against Palestinians. These measures may include, but are not limited to, the imposition of comprehensive arms, oil, economic and trade sanctions and embargoes (with the exception of medical food and other humanitarian supplies), downgrading or suspension of diplomatic relations including sports, education, academic, cultural and other initiatives.